

~~STATE OF~~
Before the **DOCKET FILE COPY ORIGINAL**
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

ORIGINAL

In the Matter of)

Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

RECEIVED

JAN 26 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS OF AMSC SUBSIDIARY CORPORATION

AMSC Subsidiary Corporation ("AMSC") hereby replies to comments on the Commission's Further Notice of Proposed Rulemaking in the above-captioned rulemaking.^{1/} AMSC agrees with those parties that have urged the Commission not to impose any local usage requirement on carriers seeking USF eligibility. If the Commission does impose such a requirement, it Commission should (i) permit wireless carriers to offer a minimum number of discounted minutes or discounted calls, rather than an unlimited number of local calls for a flat fee, and (ii) allow service providers to define what constitutes a "local" call over their systems.

Background

AMSC's MSS System. The Commission authorized AMSC in 1989 to construct, launch and operate the first dedicated U.S. MSS system, as the culmination of a licensing process that began with the filing of applications in 1985.^{2/} The first AMSC satellite was launched in 1995, and AMSC's SKYCELL Satellite Telephone Service began early in 1996. AMSC's satellite communications system covers the entire continental United States, including Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands. AMSC's system for the first time provides voice and

^{1/} Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-45 (October 26, 1998).

^{2/} Memorandum Opinion, Order and Authorization, 4 FCC Rcd 6041 (1989) (AMSC Authorization Order"); Final Decision on Remand, 7 FCC Rcd 266 (1992); *aff'd sub nom.* Aeronautical Radio, Inc. v. FCC, 983, F.2d 275 (D.C. Cir. 1993).

No. of Copies rec'd 0+4
List ABCDE

data communications services to people who live, work, or travel in rural and remote areas of the U.S. unserved by terrestrial technologies. As the Commission itself has stated repeatedly, the public interest benefits from AMSC's system are quite significant, offering the ability to meet rural public safety needs and provide emergency communications to any area during emergencies and natural disasters.^{3/} Though primarily intended as a mobile service, it has always been expected that AMSC's system also would be used to provide fixed-site telephone service to households without any telephone service.^{4/}

AMSC's MSS system provides seamless coverage throughout the United States without any natural service area borders or divisions. In addition, because of AMSC's technology, virtually all calls on its system incur the same marginal cost; in contrast to wireline carriers and some terrestrial wireless providers, AMSC's costs are the same whether a subscriber calls the house down the street or a residence 3,000 miles away.

The Commission's FNPRM. In the FNPRM, the Commission addresses the amount of local usage that must be supported by carriers receiving universal service subsidies. The Commission seeks comment on how much local usage, if any, a carrier must include in its basic service package in order to be eligible for universal service support. The Commission asks whether it should establish different requirements for different types of carriers, and whether it

^{3/} Notice of Proposed Rulemaking, Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the Upper and Lower L-band, IB Docket No. 96-132, 11 FCC Rcd 11675, paras. 6-7, 16 (June 18, 1996).

^{4/} Notice of Proposed Rulemaking, 50 Fed Reg. 8149 (Feb. 28, 1985), para. 4; AMSC Authorization Order, para. 42. Fixed-site telephone service using AMSC's system is provided by installing a high-gain L-band transceiver at the user's location, with a standard interface and handset. All outbound calls (from the customer) are routed through the satellite to the AMSC earth station in Reston, Virginia, and into the public switched telephone network. Inbound calls (to the customer) are routed through the AMSC earth station to the satellite and terminate at the customer's location.

should give carriers the option of offering either a minimum number of minutes or a minimum number of calls in their basic service package. The Commission seeks comment on how it should determine what constitutes local usage, noting that wireless and wireline carriers may treat different sets of calls as “local.”

Approximately thirty parties, most wireless service providers, filed comments in response to the Commission’s FNPRM. Virtually all commenters emphasized the importance of competitive and technological neutrality, and asked the Commission to take the steps necessary to ensure that its universal service policy is fair to wireless providers.

Discussion

I. The Commission Should Not Require that Carriers Provide a Minimum Amount of Local Usage to Customers in Order to be Eligible for Universal Service Support

AMSC agrees with numerous commenters that the Commission should not require carriers to provide a minimum amount of local usage to customers in order to be eligible for universal service support.^{5/} This policy would conflict with the Commission’s universal service principles of competitive and technological neutrality, which should enable AMSC for the first time to gain eligibility for high cost area support. Wireless carriers have higher usage-based costs than typical wireline providers, and a local usage requirement would distort competition in rural and high cost areas by favoring these wireline carriers and effectively creating a barrier to entry by Commercial Mobile Radio Service (“CMRS”) providers.

A local usage requirement would also limit consumer choice in rural and high cost areas. Some customers in these areas may prefer basic service packages that provide benefits other than

^{5/} See, e.g., Comments of the Cellular Telecommunications Industry Association, at 12-15 (January 11, 1999); Comments of AirTouch Communications, Inc., at 9-13 (January 11, 1999); Comments of Sprint PCS, at 7-16 (January 11, 1999); Comments of Western Wireless Corporation, at 21-26 (January 11, 1999).

free local usage or local usage discounts, and these consumers should have the same right as those in urban areas to select calling plans that suit their particular service needs. Competitive demand and consumer forces, not the Commission, should determine the extent to which local usage receives universal service support.

II. If the Commission Imposes a Local Usage Requirement, Carriers Utilizing Usage-based billing for Local Traffic Must Be Able to Gain USF Eligibility

If the Commission decides to impose a local usage requirement, it should ensure that carriers that utilize usage-based billing for local traffic can become eligible for federal universal service support. Rather than requiring carriers to provide an unlimited amount of local service for a flat fee, the Commission should permit carriers to simply offer a minimum number of local calling minutes or local calls at a discounted rate that it deems affordable.^{6/} Under this policy, the number of minutes or calls required by the Commission should be minimal, in order to avoid creating a barrier to entry by CMRS providers in rural and high cost areas. Any local usage requirement should be consistent with the Commission's universal service principle of competitive and technological neutrality.

III. The Commission's Definition of "Local" Should Be Flexible

As described above, AMSC's usage-based costs are unrelated to the distance covered by a call transmitted over its seamless national system, and disparate treatment of some inappropriately defined category of "local" MSS traffic would be an unsound approach to regulating AMSC's MSS system. If the Commission decides nonetheless to impose a local usage requirement on all CMRS providers, including MSS operators, the Commission should at least be flexible in

^{6/} See Comments of GTE Service Corporation, at 12-20 (January 11, 1999); Comments of SBC Communications, Inc., at 7-8 (January 11, 1999); Comments of Ohio Consumers' Counsel, at 5-7 (January 11, 1999)

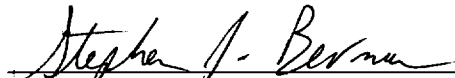
implementing this requirement, and permit MSS providers to define what constitutes a "local" call over their systems.^{7/} Such flexibility would be consistent with the universal service principles of competitive and technological neutrality.

Conclusion

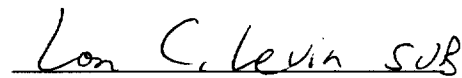
Based on the foregoing, AMSC urges the Commission to adopt the policies described in these comments.

Respectfully submitted,

AMSC SUBSIDIARY CORPORATION



Bruce D. Jacobs
Stephen J. Berman
Fisher Wayland Cooper
Leader & Zaragoza L.L.P.
2001 Pennsylvania Ave., N.W.
Suite 400
Washington, D.C. 20006
(202) 659-3494



Lon C. Levin
Vice President and Regulatory Counsel
AMSC Subsidiary Corporation
10802 Park Ridge Boulevard
Reston, Virginia 20191
(703) 758-6000

January 25, 1999

^{7/} On similar grounds, Sprint PCS urges the Commission to permit CMRS providers to designate their own service areas for purposes of providing universal service and obtaining support from federal and state universal service programs. Sprint PCS points out that it would not be competitively neutral to require a CMRS provider to modify its coverage area to conform with the incumbent wireline LEC's service area. Sprint PCS Comments at 20.

CERTIFICATE OF SERVICE

I, Cindi Smith Rush, a secretary to the law firm of Fisher Wayland Cooper Leader & Zaragoza L.L.P., hereby certify that on this 26th day of January 1999, I served a true copy of the foregoing Reply Comments of AMSC Subsidiary Corporation by first class United States Mail, postage prepaid, upon the following:

Robert S. Tongren
Consumers' Counsel
David C. Bergmann
Assistant Consumers' Counsel
Ohio Consumers' Counsel
77 South High Street, 15th Floor
Columbus, Ohio 43266-0550

Robert M. Lynch
Roger Toppins
Michael J. Zpevak
Hope Thurrott
SBC Communications, Inc.
One Bell Plaza, Room 3004
P.O. Box 655521
Dallas, Texas 75265-5521

Carol L. Tacker
Southwestern Bell Mobile Systems
17330 Preston Road, 100A
Dallas, Texas 75252

Bruce E. Beard
Southwestern Bell Wireless
13075 Manchester Road
St. Louis, Missouri 63131

John F. Raposa
GTE Service Corporation
600 Hidden Ridge, HQE03J27
P.O. Box 152092
Irving, Texas 75015-2092

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W., Suite 1200
Washington, D.C. 20036

Pamela J. Riley
AirTouch Communications, Inc.
1818 N Street, Suite 800
Washington, D.C. 20036

Douglas D. Leeds
AirTouch Communications, Inc.
One California Street, 29th Floor
San Francisco, CA 94111

Michael C. Farquhar
David L. Sieradzki
Ronnie London
Hogan & Hartson L.L.P.
Columbia Square
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109
Counsel for Western Wireless Corporation

Gene DeJordy
Executive Director of Regulatory Affairs
Western Wireless Corporation
3650-131st Avenue, S.E., Suite 400
Bellevue, WA 98006

Michael F. Altschul
Vice President, General Counsel
Randall S. Coleman
Vice President for Regulatory Policy and
Law
Cellular Telecommunications Industry
Association
1250 Connecticut Avenue, N.W., Suite 800
Washington, D.C. 20036

Jonathan M. Chambers
Roger C. Sherman
Sprint PCS
1801 K Street, N.W., Suite M112
Washington, D.C. 20006

Laura H. Phillips
Victoria A. Schlesinger
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036
Counsel for Comcast Cellular
Communications, Inc.

A handwritten signature in cursive script, reading "Cindi Smith Rush", written over a horizontal line.

Cindi Smith Rush